



County of Los Angeles CHIEF EXECUTIVE OFFICE

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SACHI A. HAMAI
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May 11, 2015

To: Mayor Michael D. Antonovich
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe

From: Sachi A. Hamai
Interim Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

SACRAMENTO UPDATE

Executive Summary

This memorandum contains a report on legislation related to the local agency formation commission (LAFCO) process:

- **Pursuit of County Position to Oppose SB 239 (Hertzberg).** This measure would permit a public agency to exercise new or extended fire protection services outside of its current service area only if the public agency: 1) receives written approval from the local agency formation commission in the affected county; and 2) enters into written agreements for the performance of these services with each affected public agency and recognized employee organization(s) representing firefighters in the affected area. Therefore, unless otherwise directed, consistent with existing policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board, **the Sacramento advocates will oppose SB 239.**
- **Legislation of County Interest AB 851 (Mayes).** This measure would make changes to the local agency formation commission (LAFCO) process related to the terms and conditions for the disincorporation of a city.

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Pursuit of County Position

SB 239 (Hertzberg), which as amended on April 23, 2015, would permit a public agency to exercise new or extended fire protection services outside of its current service area only if:

- 1) it first requests and receives written approval from the local agency formation commission (LAFCO) in the affected county;
- 2) the public agency makes the request to the LAFCO by adopting a resolution of application which includes a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed change of organization;
- 3) the public agency conducts an open and public hearing on the resolution;
- 4) the public agency submits a fire services reorganization contract plan that includes specified information including: the estimated cost to provide the new or extended services; the estimated cost to customers in the affected areas; and a plan for financing the new or extended services, among other information; and
- 5) an independent comprehensive financial analysis.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires cities and districts to obtain LAFCO's written approval before they can provide services in the territory outside of their boundaries. However, LAFCO approval is not required for contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider. Nor is LAFCO approval required in situations where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

Existent law allows cities and fire protection districts to contract with a county to provide fire protection services within the local agency's jurisdiction. Similarly, local governments may contract with the California Department of Forestry and Fire Protection to provide fire protection services. Because these contracts and agreements involve public agencies and existing services, they are not subject to LAFCO approval.

According to the author's office, SB 239 seeks to extend a LAFCO's jurisdiction to include contracts for services between public agencies for fire protection. Specifically,

SB 239 would require a public agency that proposes to provide a new or extended service for fire protection outside of its current service area to go through a LAFCO process. This process would include submitting an application with specified information to LAFCO regarding the plan for services in the affected territory, and written agreements from each affected public agency and recognized employee organization representing firefighters of the existing and proposed service providers consenting to the proposed change of organization.

This office notes that SB 239 would elevate contracts or agreements for new or extended fire protection services outside a public agency's current service area to the level of a "Change of Organization." Under current law, this includes any of the following: annexation to a city or a district; detachment from a city or a district; a district dissolution or formation; a city incorporation or disincorporation; a consolidation of cities or districts; a merger of a city and a district; establishment of a subsidiary district; or exercise of new functions by a special district. Requiring LAFCO approval of fire protection contracts would diminish the authority of local officials who, under current law, are allowed to contract for fire protection services with another public agency.

In addition, requiring a LAFCO review and approval of a fire service contract or agreement would essentially relinquish the Board's control over contracting decisions related to fire services and remove the Board's ability to evaluate contracting decisions based on fiscal, service delivery, and administrative implications for County constituents and Departments. This requirement may also set a precedent that could impact service contracts and agreements provided by other County departments such as: Animal Care and Control, Libraries, Public Works and the Sheriff.

This office opposes SB 239 because it would require a public agency to submit a plan for extended services for fire protection to LAFCO for review and approval, rather than allow local elected officials to make policy decisions in response to local needs, service requirements and cost effectiveness. Therefore, unless otherwise directed, consistent with existing policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board, **the Sacramento advocates will oppose SB 239.**

SB 239 is sponsored by the California Professional Firefighters and supported by the California Labor Federation.

The bill is opposed by: the California Special Districts Association; California State Association of Counties; Alameda County LAFCO; Apple Valley Fire Protection District; California Association of LAFCOs; California Building Industry Association; Contra Costa County LAFCO; Covelo Fire Protection District; Happy Valley Fire Protection District; Fire Districts Association of California; Hesperia Recreation and Park District;

League of California Cities; Los Angeles County LAFCO; Rural County Representatives of California; San Mateo County LAFCO; Saratoga Fire District; Shasta Lake Fire Protection District; and Squaw Valley Public Service District.

SB 239 is awaiting hearing in the Senate Appropriations Committee.

Legislation of County Interest

AB 851 (Mayes), which as amended on April 13, 2015, would make changes to the local agency formation commission (LAFCO) process for developing the terms and conditions for the disincorporation of a city. Specifically, this bill would:

- 1) in the case of a disincorporation, require the plan for services to contain specific provisions including, an enumeration and description of the services currently provided by the city proposed for disincorporation;
- 2) require the petitioner or legislative body desiring to initiate a disincorporation to submit an application to the LAFCO and require the LAFCO to immediately notify all affected local agencies and any applicable State agency;
- 3) prohibit a LAFCO from approving or conditionally approving a proposal that includes a disincorporation unless the commission finds that the disincorporation is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act) and the service responsibilities of the city proposed for disincorporation have been assigned;
- 4) require the LAFCO to: prepare a comprehensive fiscal analysis for any proposal that includes a disincorporation; determine the amount of property tax revenue to be exchanged by the affected city and any successor agency or affected local agency; and determine the increase of the appropriations limit for the successor agency or agencies.
- 5) state the intent of the Legislature that a proposal for a disincorporation of a city would result in a determination that the debt or contractual obligations and responsibilities of the disincorporated city to be the responsibility of the same territory for repayment;
- 6) prohibit the district that is being dissolved or the city that is being disincorporated from approving any increase in compensation or benefits for specified officers of the agency, or from appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget

at the time the dissolution is approved by the LAFCO, unless it first finds that an emergency exists;

- 7) require that, for the territory of the disincorporated city, the general plan and the zoning ordinances remain in place until the county updates those plans or ordinances, and require any conditional use permit or legal nonconforming use remain in force pursuant to the community plan and zoning ordinances;
- 8) require the board of supervisors of the affected county to, within 90 days of the effective date of the disincorporation, adopt an expedited permit process relating to business, development, and health and safety permits for the territory of the disincorporated city;
- 9) repeal existing law which requires the board of supervisors to levy and collect taxes from within the territory formerly included within a disincorporated city, if there is not sufficient money in the former city's treasury to pay any city indebtedness as it becomes due;
- 10) repeal existing law which requires the board of supervisors to levy a special tax upon all property within the disincorporated city if the revenues from specified public utilities are not sufficient for the administration, conduct, or improvement of the public utility; and
- 11) repeal provisions of existing law which require the board of supervisors to annually, at the time other county taxes are levied and collected, to levy and collect a special tax on the remainder of the territory of a disincorporated city sufficient to pay the balance of the debt, and pay that sum to the city treasurer.

According to the author of AB 851, recent financial events such as the recession, the dissolution of redevelopment agencies, and the elimination of motor vehicle in-lieu fees for newly incorporated cities has left many cities at risk of disincorporation. The author also notes that because the statutes addressing disincorporation have not been updated since the inception of LAFCOs in 1963, the procedures for dispensing with debt and unfunded liabilities are not in compliance with Proposition 13 of 1978 and Proposition 218 of 1996. This could potentially result in a county being responsible for the debts and unfunded liabilities of a disincorporated city.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act) established a Local Agency Formation Commission (LAFCO) in each county to oversee proposed changes of organization for cities and districts throughout the State. The county LAFCOs are also the entities that receive and process proposals and

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applications for disincorporation. The Act also outlines the procedure for the disincorporation of a city which involves four stages: 1) initiation of proceedings, either by petitioning the LAFCO or by filing a resolution of application adopted by any affected local agency; 2) consideration by the LAFCO, including a public hearing; 3) upon adoption of resolution ordering the disincorporation by the LAFCO, an election of the voters within the city to be disincorporated; and 4) if approved by the voters, the issuance of a certificate of completion by the LAFCO.

This office is working with County Counsel, Regional Planning, Auditor-Controller, Treasurer-Tax Collector, Sheriff, Fire, and Public Works to analyze AB 851 and determine its potential impact to the County.

AB 851 is sponsored by the California Association of LAFCOs and supported, in concept, by the California State Association of Counties and Rural County Representatives of California, and Urban Counties Caucus. The bill is also supported by various LAFCOs, including; Contra Costa, Imperial, Orange County, San Bernardino County, San Luis Obispo, San Mateo, and Sonoma. There is no opposition on file.

AB 851 is scheduled for a hearing in the Assembly Appropriations Committee on May 13, 2015.

We will continue to keep you advised.

SAH:JJ:MR
VE:AO:lm

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants